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CLERK U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
AKRON

DATE: June 5, 2008

TO: The Honorable Morganstern-Clarren, Bankruptcy Judge for  
Northern District of Ohio, Cleveland Division**RE: Summary of Motion for Relief Audit Status**

Pursuant to the request of the Honorable Judge Morgenstern-Clarren, Brice, Vander Linden, & Wernick, P.C. (herein after referred to as "BVW") has conducted an audit on all cases in the Northern and Southern Districts of Ohio with pending litigation on motions for relief from automatic stay filed by its Ohio counsel on behalf of their collective clients.

**Population of Pleadings to be Audited:**

All files referred to BVW are entered into the BVW Bankruptcy Tracking System. The procedures that were utilized to obtain the information necessary to conduct the audits included the execution of an exclusionary and specialized report that limited all results to pending litigation in the state of Ohio. The audit inquiry began by building a search program with the following parameters:

- All files where the underlying bankruptcy case was in Ohio
- All files where a motion for relief was pending in Ohio
- **The population totaled 86 files**

This population of files constituted the total number of Motions for Relief that would be subject to the audit. The primary goal of the audit was to determine whether any of the pleadings or local forms in cases with pending motions contained attorney fees, which had not been previously allowed to the moving party through court order.

- 43 Motions for Relief were pending within the Northern District of Ohio and were audited to determine whether attorney fees were included in the motion for relief or its related exhibits, i.e. worksheet mandated by local rule.
- 43 Motions for Relief were pending within the Southern District of Ohio and were audited to determine whether attorney fees were included in the motion for relief or its related exhibits, i.e. worksheet mandated by local rule. Twenty-three (23) motions were audited at the time the instant summary was filed with the Court.
- **A total of 20 motions for relief in the Southern District of Ohio have yet to be audited.**

The report results were then organized by case number, debtor name, judge name, District and matter type.

#### **Audit Personnel:**

The audit report was provided to BVW departmental managers, who divided the information among specified paralegals and administrative assistants so that they could obtain specific information on each debtor file. The information gathered included the docket sheets and copies of all relevant documents filed with the court such as motions for relief and related local form worksheets. In addition, both internal and external file and account information as received from individual clients and itemizations of amounts contained within the pleadings and forms filed with the Court was gathered as part of the audit procedure.

Audit files were organized by Northern and Southern Districts and then submitted to BVW attorneys for review and analysis. The attorneys that participated in the audit review are all licensed by the State Bar of Texas, familiar with bankruptcy matters and are in good standing with the bar. The amounts contained within the pleadings and exhibits were reviewed by carefully analyzing each client's loan information with the itemized amounts in the pleadings to ensure that each file review received the appropriate legal analysis and review.

#### **Audit Status:**

The audit resulted in an aggregate 86 active motions for relief in the State of Ohio, with 43 motions pending in the Northern District of Ohio and 43 motions pending in the Southern District of Ohio

In reviewing 66 of the 86 pending motions for relief, it was determined that there were 16 instances where attorney fees were included in an amount listed in a pleading. Four (4) of these motions are pending in the Southern District of Ohio and twelve (12) are pending in the Northern District of Ohio.

#### **Remedial Measures:**

Amended Motions for Relief: The 16 Motions for Relief identified will be or have been amended to exclude attorney fees that were not previously allowed by the Bankruptcy Court. No attorney fees and costs were intended or are to be assessed to the borrower.

Motions for Relief – from June 1, 2008 forward: On all referrals sent by BVW to its Ohio local counsel for Motions for Relief after June 1, 2008 forward, will have an expanded itemization of costs contained in the Worksheet mandated

by local rules. In addition, all invoices and 3<sup>rd</sup> party bills will be provided to its local counsel, along with recorded copies of the loan documents, mortgage, and any applicable assignments.

**Further Actions:**

Undersigned counsel would gladly add any further information the Court may deem necessary to any Motion for Relief filed in Ohio by BVW's local counsel and will actively participate in pursuing additional information from its clients in the event that it is sought.

The above and foregoing information is true and correct to the best of my knowledge.

/s/ Joe M. Lozano, Jr.  
Joe M. Lozano, Jr.